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PATENT
3885-0102P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Hisashi YAMADA et al. Conf.: 2551

Appl. No.: 10/046,739 Group: 2814

Filed: January 17, 2002 Examiner: H. TRINH

For: THIN-FILM CRYSTAL WAFER HAVING pn

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WAFER

## PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT

#### MS PETITION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

May 4, 2005

Sir:

In response to the Notice of Abandonment dated April 4, 2005, applicant hereby respectfully petitions under the provisions of 37 C.F.R. § 1.181 and MPEP § 711.03(c) for a decision to withdraw the holding of abandonment due to failure to receive an Office Action.

The Notice of Abandonment dated April 4, 2005, indicates that this application was abandoned in view of the applicant's failure to respond to an Office Action dated July 23, 2004.

However, this Office Action was never received by the offices of the undersigned, and a search of the file jacket for the present application and the firm docketing records reveals that the Office Action of July 23, 2004 was never received. The offices of the undersigned did not become aware of the Office Action until advised of the holding of abandonment.

#### EVIDENCE

The fact that the Office Action of July 23, 2004 was never received in the offices of Birch, Stewart, Kolasch & Birch, LLP is evidenced by Exhibits I and II attached hereto.

Exhibit I is a copy of the front page of the file jacket of Appl. No. 10/046,739 (which corresponds to Attorney Docket No. 3885-0102P). It is the policy in our office to record all information regarding Office Actions and responses on the front page of the file jacket. As the Petitions Examiner will note, there is no entry for the Office Action dated July 23, 2004 on the front page of the file jacket of the above-referenced application.

Exhibit II is a copy of the computer-generated daily docket sheet(s) of Birch, Stewart, Kolasch & Birch, LLP for the date of August 21, 2004 through August 23, 2004 (the due date for said Office Action), containing entries made by our Docketing Department of due dates in response to PTO actions. It is the policy of our offices to docket all due dates for Office Actions received from the USPTO into our computer docketing system.

Although Application Numbers, and Client Names, have been redacted from this Exhibit to avoid public disclosure of these matters once the present application is patented, it is still clear that there is no entry for the due date of August 23, 2004 which corresponds to the current application, Attorney Docket No. 3885-0102P.

The undersigned certifies that he has reviewed the computer-generated daily docket sheets for the due date of August 23, 2004 and did not locate an entry that corresponds to Appl. No. 10/046,739 to inventors Hisashi YAMADA et al..

#### 2. TERMINAL DISCLAIMER

- The present application was filed on or after May 29, 2000. Accordingly, no Terminal Disclaimer is necessary. It is noted that the present Petition is being timely filed within two (2) months of the mailing date of the Notice of Abandonment. Accordingly, no reduction in patent term adjustment should be made, in accordance with the provisions of 37 C.F.R. § 1.704(c)(4).
- The present application was filed on or after June 8, 1995 but before May 29, 2000. The present Petition is being timely filed within two (2) months of the mailing date of the Notice of Abandonment. Accordingly, no Terminal Disclaimer under 37 C.F.R. § 1.321(a) is necessary. See MPEP § 711.03(c).
- The present application was filed on or after June 8, 1995 but before May 29, 2000. The present Petition is being filed more than two (2) months from the mailing date of the Notice of Abandonment. Accordingly, a Terminal Disclaimer under 37 C.F.R. § 1.321(a) and the required fee set forth in 37 C.F.R. § 1.20(d) are being submitted concurrently herewith. The period being disclaimed is equivalent to the period between (1) the date that is two months after the mail date of the

notice of abandonment and (2) the filing date of the present petition to withdraw the holding of abandonment. See MPEP § 711.03(c).

In view of the above-described facts, it is respectfully submitted that the abandonment of the present application was unavoidable and due solely to problems with mailing of an Office Action since the Office Action dated July 23, 2004 was never received in the offices of Birch, Stewart, Kolasch & Birch, LLP. The present Petition is timely filed for this purpose.

Since the above-mentioned Office Action was never received in the offices of the undersigned, it is believed that no petition fee is necessary in connection with this Petition.

## Previous Petition Granted

Also enclosed is a Decision on Petition dated July 22, 2004, which granted a previous Petition to Withdraw Holding of Abandonment filed originally on August 20, 2003. Again, the reason was that the Office Action was not received. It is not understood why this is the case. However, it is noted that the most recent cover sheet for the Notice of Abandonment and Office Action which was faxed on April 4, 2005, includes a "white streak" which appears to remove one of the digits from the zip code of the address. Perhaps this has prevented the document from being delivered to our offices. As a final note, we receive about 40 pieces of mail from the USPTO each day, and we have not had any problems like the present situation in which the failure to receive a piece of mail occurred a second time.

Appl. No. 10/046,739

## Enclosed Reply to Office Action

Since applicants have now received via facsimile the Office Action, i.e., the Restriction Requirement, a Reply to Restriction Requirement has been prepared and is enclosed herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

Andr∉w

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

Attachments:

ADM: gmh

Exhibit I - Copy of File Jacket Exhibit II - Copy of Docket Sheet

Copy of Decision on Petition

Copy of Office Action

Reply to Restriction Requirement



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Action Attorney(Attorney2): ETP EUGENE T. PEREZ

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21-Aug-2004 SEQUENC	E REQ	0230-0213 /	Pending		26-Feb-2004
Due Date	SR	United States of America	YUASA AND HARA		
	123 A	Title: METHOD OF MODIFYING GENOME IN HIGHER PLANT Remarks: NOTICE TO COMPLY WITH REQUIREMENTS MAILED ( SEQUENCE LISTING DUE	GENOME IN HIGHER PLANT H REQUIREMENTS MAILED 6/21/04		
22-Aug-2004 Final	TRANSLATION (	0020-5119 / United States of America	Abandoned AOYAMA & PARTNERS	İ	27-Feb-2003
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Reminder	Information Dischosure Strant	United States of America  Title: PATTERNING PROCESS ANI	United States of America Kojima Patent Office  Title: PATTERNING PROCESS AND UNDERCOAT-FORMING MATERIAL	IAL		GMM
22-Aug-2004	TRANSLATION-6MONTH	2870-0269 /	Pending	ţ	22-Oct-2003	GMM
Reminder	TRAN NOTES	United States of America  Title: T CELL ACTIVATING GENE	SIKs & Co.			GMM
23-Aug-2004	TRANSLATION (	0020-5119 /	Abandoned		27-Feb-2003	GMM
Final	TRAN MARCH	United States of America  Title: PHARMACEUTICAL COMPO	United States of America AOYAMA & PARTNERS  Title: PHARMACEUTICAL COMPOSITION FOR TREATMENT OF DRUG DEPENDENCE	JG DEPENDENCE		GMM
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23-Aug-2004  Due Date	IDS REDOCK	2801-0184 / 2 United States of America	Pending		14-Apr-2004	GMM
Slow Pay - See Managing Partner	1 M J	Title: PROCESS FOR MANUFACTURING A METERE Remarks: per dms 4/14/04, 6/14, per d sheet 6/25/04, 7/2/04,	URING A METERED DOSE INHALER eet 6/25/04, 7/2/04, 7/9/04, 8/9/04	R		
23-Aug-2004	)V-1 N		Pending		23-Sep-2003	GMM
Reminder	File Application M	United States of America  Title: PREPARATION METHOD				GMM
23-Aug-2004	Foreign Filing-1Month	4951-0101 / 1	Pending		23-Sep-2003	GMM
Reminder	Foreign Filing	United States of America  Title: PREPARATION METHOD				GMM
23-Aug-2004	Foreign Filing-1 Month	4951-0102 / 1	Pending		23-Sep-2003	GMM
Reminder	Foreign Filing	United States of America  Title: PREPARATION METHOD				GMM
23-Aug-2004 Reminder	CONVERT PROV-1 Month call-up File Application	4951-0102 / 1 United States of America Title: PREPARATION METHOD	Pending	¥ .	23-Sep-2003	GMM GMM

26-Jan-2001 JWB JWB  21-Dec-2001 RCS JWB  21-Dec-2001 JWB JWB  AL  07-Apr-2004 JWB JWB HE SAME, AND DETERGENT  23-Jun-2004 JWB	Pending FURUYA & CO. POSITION PART'S MAILED 6/22/04 DUE PENDING HOSODA INTERNATIONAL PATENT OFFICE PROCESS FOR PREPARING THE IGH BULK DENSITY Pending	Title: RESIN COMPOSITION  Remarks: PUB FEE  0425-1124 / 1 Pending  United States of America FURUYA & CO.  Title: LIQUID DETERGENT COMPOSITION  Remarks: NOTICE TO FILE MISSING PARTS MAILED 6/22/04  OATH OR DECLARATION DUE  1422-0371 / PENDING  United States of America HOSODA INTERNATIONAL  PATENT OFFICE  Title: DETERGENT PARTICLES, PROCESS FOR PREPARING THE SAME, AND DETERGENT COMPOSITION HAVING HIGH BULK DENSITY  3349-0106 / 2 Pending	PERFECT FILING PF  TILOR Rem  AMENDMENT XX OA1  TIDS Reminder	Slow Pay - See N 22-Aug-2004 Due Date 22-Aug-2004 Due Date
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Action Attorney(Attorney2): KR

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Due Date Indicator         Action Type         Docket Number/SubCase         Status         App Number         App Date Indicator           21-Aug-2004         DRAWINGS-I MONTH         0365-0302/         Published         27-Apr-2           Reminder         DR3         United States of America         Seppo Laine Oy           Reminder         IF         Title: METHOD AND DEVICE FOR MODIFYING THE IRRADIANCE DISTRIBUTION OF A RADIATION           27-Aug-2004         ISSUE FEE-1 MONTH         0365-0302/         Published         27-Apr-2           21-Aug-2004         ISSUE FEE-1 MONTH         0365-0302/         Published         27-Apr-2           22-Aug-2004         NOA XXX         United States of America         Seppo Laine Oy         Published           22-Aug-2004         NOA XXX         United States of America         Seppo Laine Oy         Published           22-Aug-2004         NOA X         United States of America         Seppo Laine Oy         Published           22-Aug-2004         NOA X         United States of America         Seppo Laine Oy         Published           Due Date         NOA         United States of America         Seppo Laine Oy         AMERICAN AMERIC							
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ug-2004 DRAWINGS-1 MONTH  ug-2004 DR3  Title: METHOD AND DEVICE FOR MODIFYING THE IRRADIANCE DISTRIBUTION OF A RADIATIC SOURCE  ug-2004 ISSUE FEE-1 MONTH  D365-0502 / Published  ug-2004 ISSUE FEE-1 MONTH  D365-0502 / Published  ug-2004 NOA XXX DISTRIBUTION OF A RADIATIC SOURCE  Remarks: PUB FEE  Remarks: PUB FEE  Remarks: PUB FEE  Remarks: PUB FEE  Remarks: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  ug-2004 NOA Title: PROCESS FOR PRODUCING A POLYETHYLENE COATING ON A SUBSTRATE  Remarks: Advisory Action mailed \$1/204  ug-2004 AMENDMENT XX DISTRIBUTION OF A RADIATIC States of America Seppo Laine Oy  Title: TRANSGENIC PLANTS WITH A MODIFIED ACTIVITY OF A PLASTIDIAL ADP/AIP TRANSL.  Pay - See Managing Partner  ug-2004 TO BE FILED ACTUAL-LAST DAY 0365-0533 / Published  Title: TROPYLENE OLATICS WITH AN ULTRA HIGH MELT FLOW RATE  Title: TROPYLENE FOLATICS WITH A MODIFIED ACTIVITY OF A PLASTIDIAL ADP/AIP TRANSL.  Title: TROPYLENE FOLATICS WITH A MODIFIED ACTIVITY OF A PLASTIDIAL ADP/AIP TRANSL.  Title: PROPYLENE FOLATICS WITH AN ULTRA HIGH MELT FLOW RATE  Title: TROPYLENE FOLATICS WITH AN ULTRA HIGH MELT FLOW RATE  - Title: TROPYLENE FOLATICS WITH AN ULTRA HIGH MELT FLOW RATE  - Title: TROPYLENE FOLATION per c-mail dated 8-19-04  Remarks: FILE CONTINUATION per c-mail dated 8-19-04	Indicator	Action Type	Country	Client	Pat Number	ISS Date	Attys
nder DR3  Title: METHOD AND DEVICE FOR MODIFYING THE IRRADIANCE DISTRIBUTION OF A RADIATIC States of America  Seppo Laine Oy  Published  United States of America  Seppo Laine Oy  Title: METHOD AND DEVICE FOR MODIFYING THE IRRADIANCE DISTRIBUTION OF A RADIATIC SOURCE  SOURCE  Remarks: PUB FEE  Remarks: PUB FEE  Remarks: PUB FEE  Remarks: PUB FEE  Remarks: POPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  United States of America  Seppo Laine Oy  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  United States of America  Seppo Laine Oy  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  United States of America  Seppo Laine Oy  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  United States of America  United States of America  VOSSIUS & PARTNER  PROPYLENE POLYMERS WITH AN MODIFIED ACTIVITY OF A PLASTIDIAL ADP/ATP TRANSLE  PROPYLENE POLYMERS WITH A MODIFIED ACTIVITY OF A PLASTIDIAL ADP/ATP TRANSLE  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  United States of America  United States of America  Published  United States of America  Published  Published  Published  PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  United States of America  Published  Pu	21-Aug-2004	DRAWINGS-I MONTH	0365-0502 /	Published		27-Apr-2001	LRS
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nder IF  Title: METHOD AND DEVICE FOR MODIFYING THE IRRADIANCE DISTRIBUTION OF A RADIATIC SOURCE  Remarks: PUB FIEE  Q365-0538 / Published  United States of America Seppo Laine Oy  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  Pag-2004 NOA X Q365-0546 / Published  United States of America Seppo Laine Oy  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  Remarks: Advisory Action mailed 8/1204  Perding  Pending  AMENDMENT XX United States of America VOSSIUS & PARTNER  Pay - See Managing Partner  Pay - See Managing Partner  Title: TRANSGENIC PLANTS WITH A MODIFIED ACTIVITY OF A PLASTIDIAL ADP/ATP TRANSLE  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  - United States of America Seppo Laine Oy  Title: PROPYLENE POLYMERS WITH AN ULTRA HIGH MELT FLOW RATE  - United States of America PLOUGMANN & UNGTOPT A/S  Title: BINDER SYSTEMS DERIVED FROM AMORPHOUS SILICA AND BASES  PROPALES: FILE CONTINUATION per c-mail dated 8-19-04  Pay - See Managing Partner  Pay - See Managing Partner  Remarks: FILE CONTINUATION per c-mail dated 8-19-04	21-Aug-2004	ISSUE FEE-1 MONTH	0365-0502 /	Published	ħ	27-Apr-2001	LRS
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Pay - See Managing Partner  Pay - See Managing Partner  IIII: TRANSGENIC PLANTS WITH A MODIFIED ACTIVITY OF A PLASTIDIAL ADP/ATP TRANSLO  IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII	Due Date	OA1	United States of America	<b>VOSSIUS &amp; PARTNER</b>			ΚŖ
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Action Attorney(Attorney2): LRS LEONARD R. SVENSSON

Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client	App Number A Pat Number I	App Date Iss Date	
23-Aug-2004	CONVERT PROV-1 Month call-up	2750-1577 /	Pending		23-Sep-2003	
Reminder	File Application	United States of America  Title: Promoter, Promoter Control Elements, and Combinations, and Uses Thereof	lements, and Combinations, and U	Uses Thereof		
Slow Pay - See Managing Partner	anaging Partner					
23-Aug-2004	Foreign Filing-1 Month	2750-1577 /	Pending	1	23-Sep-2003	
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		Title: Promoter, Promoter Control Elements, and Combinations, and Uses Thereof	lements, and Combinations, and U	Uses Thereof		
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23-Aug-2004	Foreign Filing-1Month	2750-1578 /	Pending		23-Sep-2003	
Reminder	Foreign Filing	United States of America				
		Title: Nucleotide Sequences and Polypeptides Encod	ypeptides Encoded Thereby Usefi	ed Thereby Useful for Modifying Plant Characteristics	<b>V</b> .	
Slow Pay - See Managing Partner	anaging Partner					1
23-Aug-2004	CONVERT PROV-1 Month call-up	2750-1578 /	Pending		23-Sep-2003	
Reminder	File Application	United States of America  Title: Nucleotide Sequences and Polypeptides Encod	ypeptides Encoded Thereby Usefi	ed Thereby Useful for Modifying Plant Characteristics	•	
Slow Pay - See Managing Partner						- 1
Action Attorney(Attorney2):	MAA	MARYANNE ARMSTRONG		!		
21-Aug-2004	Information Disclosure Sunnt	2428-0120 / 2	Pending		21-May-2004	
Due Date	2020	United States of America  Title: GENETIC TRANSFORMATION USNING A	ON USNING A PARP INHIBITOR	<b>●</b>		
22-Aug-2004	CALL UP	0234-0441 /	Published		04-Feb-2002	
Reminder	CU	United States of America	lida Patent Office	,		
	7	Title: 1H-PYRROLO-[1,2-B][1,2,4]7 METHOD OF PREPARING A	TRIAZOLE COMPOUND AND IH-1,2, 4-TRIAZOLE-5-YL-AC	Title: 1H-PYRROLO-[1,2-B][1,2,4]TRIAZOLE COMPOUND AND ITS SYNTHETIC INTERMEDIATE, AND METHOD OF PREPARING A 1H-1,2, 4-TRIAZOLE-5-YL-ACETIC ACID ESTER COMPOUND	, AND	
Slow Pay - See Managing Partner		Remarks: Check on PD ack per Sam 7/26/04	5/04			
22-Aug-2004	IDS Reminder	3749-0103 / 1	Pending		22-Jun-2004	
Reminder	Information Disclosure Strant	United States of America NOMURA A  Title: METHOD OF CONSTRUCTING CHIMERIC		& MAYAMA PLANT BY HEAVY ION BEAM IRRADIATION		

Action Attorney(Attorney2): 21-Aug-2004 NOA X Due Date NOA	23-Aug-2004 PER Reminder	Action Attorney(Attorney2):  22-Aug-2004 PERFECT I  Reminder  (COURT ON APE	Slow Pay - See Managing Partner	23-Aug-2004 Reminder	Due Date	23-Aug-2004	23-Aug-2004 Reminder	23-Aug-2004 Reminder	Due Date Indicator	Intley, Angusi 20, 2003 Incor 3ú
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RICHARD J. GALLAGHER  0171-0902 /  United States of America  FILM	0446-0167 / 1 United States of America Title: A METHOD OF PRODUCIN	RAYMOND C. STEWART  0446-0166 / 1  United States of America  Title: DESULFURISATION OF FUEL	Title: IMMUNOTHERAPEUTIC COMBINATIONS F EXPRESS GANGLIOSIDES  Remarks: Decision on Petition mailed 7-23-04 (dismissed) EOT available under 37 CFR 1.136(a)	4565-0106 / United States of America	United States of America  Title: A MEANS FOR ELECTRICAL CONTACTING OR SEMICONDUCTORS AND A METHOD FOR ITS  Remarks: Advisory Action mailed 7/2/04	3672-0111 /	2959-0106 / United States of America Title: TANDEM POLYMERIC NU	2959-0106 / Pending United States of America Title: TANDEM POLYMERIC NUCLEIC ACID HY	Docket Number/SubCase Country	Due Dete Illis
GALLAGHER  0171-0902 / Published 09-Oct- United States of America Kojima Patent Office  Title: PHOTO-CURABLE RESIN COMPOSITION, PATTERNING PROCESS, AND SUBSTRATE PROTECTING FILM	0446-0167/1 Pending United States of America Davies Collison Cave  Title: A METHOD OF PRODUCING AN ANTICOAGULATION EFFECT	Pending Pendin	Title: IMMUNOTHERAPEUTIC COMBINATIONS FOR THE TREATMENT OF TUMOURS THAT OVER- EXPRESS GANGLIOSIDES  arks: Decision on Petition mailed 7-23-04 (dismissed) EOT available under 37 CFR 1.136(a)	Pending	United States of America  Title: A MEANS FOR ELECTRICAL CONTACTING OR ISOLATION OF ORGANIC OR INORGANIC SEMICONDUCTORS AND A METHOD FOR ITS  arks: Advisory Action mailed 7/2/04	Pending	2959-0106 / Pending United States of America ACID HYBRIDIZATION PROBES	Pending  CLEIC ACID HYBRIDIZATION PROBES	Status Client	KUISKIPIOOL T
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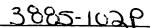
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Action Due  Action Due  Action Type  Country  Docket Number/SubCase  Client  To BE FILED  Docket Number/SubCase  Client  To BE FILED  Docket Number/SubCase  Client  To BE FILED  Docket Number/SubCase  Client  Full  Tale: PHOTO-CURABLE RESIN COMPOSITION, PATTERNING PROCESS, AND SUBSTRATE PROTECTING FILM  Remarks: FILE RCE per fix dated &-19-04  CONVERTED  Tale: PHOTO-CURABLE RESIN COMPOSITION, PATTERNING PROCESS, AND SUBSTRATE PROTECTING FILM  COSA-30-176 / CONVERTED  Tale: TRANSLATION-3MONTH  COSA-30-176 / CONVERTED  Tale: TYBERD INFLATOR  Tale: TYBERD I	RG			FURUYA & CO.	United States of America	AL AL	
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Docket Number/SubCase Status  Action Due  Action Type  Country  Docket Number/SubCase Status  Action Type  Country  Client  Title: PHOTO-CURABLE RESIN COMPOSITION, PATTERNING PROCESS, AND SUBSTRATE PROTECTING FILM  Remarks: FILE Exper fax dated \$-19-04  TRANSLATION-3MONTH  United States of America  CONVERTED  Title: TREATMENT OF PARKINSON'S DISEASE AND ENHANCEMENT OF DOPAMINE SIGNAL USING PDE10 INHIBITOR  AMENDMENT X  O425-0763 / Pending  OA1  SISSUE FEE-1 MONTH  O425-07842 / Pending  United States of America  FURUYA & CO.  United States of America  FURUYA & CO.  Title: INFLATOR PROCESSING APPARATUS AND METHOD OF JUDGING CHARGE OF INFLATOR  United States of America  FURUYA & CO.  United States of America  FURUYA & CO.  Title: INFLATOR PROCESSING APPARATUS AND METHOD OF JUDGING CHARGE OF INFLATOR  United States of America  FURUYA & CO.  13-Jun-2001					Title: HYBRID INFLATOR		
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			FORMAN	y(Attorney2): SWG SUSAN W. GORMAN	Action Attorney(Attorney2):
7.3	ND PRODUCTION OF	Title: NOVEL ACID HALIDE DERIVATIVES, THEIR PRODUCTION, AND PRODUCTION OF INDANONECARBOXYLIC ACID ESTERS USING THE SAME	Title: NOVEL ACID HALIDE DER INDANONECARBOXYLIC /		
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## UNITED STATES PATENT AND TRADEMARK OFFICE





COMMISSIONER FOR PATENT UNITED STATES PATENT AND TRADEMARK OFFIC P.O. BOX 1 450 ALEXANDRIA, VA 223 I 3-1 450 WWW.uspto.go

Paper No.

Andrew D. Meikle BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747

JUL 22 2004

In re Application of:

Yamada, et al.

Application No. 10/046,739

Filed: January 17, 2002

For: THIN-FILM CRYSTAL WAFER

HAVING PN JUNCTION AND

METHOD FOR FABRICATING THE

WAFER

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

> REVIEWED BY DECKLING

mm 7.26-04

This is a decision on the petition filed on August 20, 2003, to withdraw the holding of abandonment of the above-identified application. A petition fee is not required.

## The petition is granted.

Petitioner asserts that the Office action of November 20, 2002, was not received. The petition included a statement from the practitioner that the undersigned made a complete search of the file jacket and docketing records to establish non-receipt of the Office action. In addition, the petition included a copy of the docket records of the practitioner where the non-received Office action would have been entered had it been received by the practitioner.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. '711.03(c).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing of the November 20, 2002, Office action. The statutory periods for response set therein will be reset to run three months from the date the Office action is re-mailed.

The \$130.00 petition fee charged to applicant's account will be credited to applicant's deposit account no. 02-2448.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Sharon A. Gibson, Director Technology Center 2800

Semiconductors, Electrical and Optical

Systems and Components





## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents United States Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450 vogatqu.www

# Fax Cover Sheet

<b>Date:</b> 04 Apr 2005		
To: Mr. Andrew Meikle		From: Vikki H. Trinh
Application/Control Number:	:0/046,739	Art Unit: 2814
Fax No.: 703-205-8050		Phone No.: 571-272-1719
Voice No.: (703) 205-8000		<b>Return Fax No.:</b> (571) 273-1719
Re:		CC:
Urgent For Rev	iew For Comment	For Reply Per Your Request

#### Comments:

Enclosed is a copy of a new Notice of Abandonment, which will be sent to you, and a copy of the Office Action sent on JUly 23, 2004.

Number of pages \_\_ including this page

## STATEMENT OF CONFIDENTIALITY

This facsimile transmission is a I Official U.S. Government document which may contain information which is privileged and confidential. It is intended only or use of the recipient named above. If you are not the intended recipient, any dissemination, distribution or copying of this cocument is strictly prohibited. If this document is received in error, you are requested to immediately notify the sender at the above indicated telephone number and return the entire document in an envelope addressed to:

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UNITED STATE: PATENT AND TRADEFARK OFFICE

UNITED STATES DEPARTMENT OF COMMERC United States Patent and Trademark Office Address COMMISSIONER FOR PATENTS F.O. Box 1450 Alexandria, Virginia 22313-1450

APPLICATION NO.	FILING I	ATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/046,739	01/17/.	302	Hisashi Yamada '	3885-0101P ***	2551
2292	7590	)7/23/2004		EXAM	INER
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PO BOX 74	7 JRCH, VA 2:	040-0747		ART UNIT	PAPER NUMBER
I ADDS CITE	J. C. I., T. Z.	V-1V-V-17		2614	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

4/05 MON 15:39 FAX 703 3	722 MAY 0	' we and		1	
	17	Accidention No		Applicant(s)	
i e	WI CHILLIE	BADEMAR 10/046,739	-i	YAMADA ET AL.	
Office Action Su		Examiner		Art Unit	
Office Assisting		Vikki H Trinh		2814	
The MAILING DATE of	his communication	appears on the cov	er sheet with the c	orrespondence ad	dress
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8)⊠ Claim(s) <u>1-11</u> are sub	ect to restriction an	d/or election require	ement.		
Application Papers					
9)☐ The specification is ob	ected to by the Exa	ıminer.	. II butha Ev	a <del>min</del> or	
10)☐ The drawing(s) filed on	is/are: a)[	accepted or b) obj	ected to by the Ext	ammer. Con 27 CED 1 85/a	١
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11) The proposed drawing	correction filed on	is: a)[_] appro	action	oved by the exam.	
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Priority under 35 U.S.C. §§ 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	anu 140 ada af a alaim far f	oreian priority under	r 35 U.S.C. 6 119	(a)-(d) or (f).	
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a)⊠ All b)□ Some * □) 1.⊠ Certified copies		iments have been r	eceived.		
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3. Copies of the	or the phoney doct	e priority document	s have been recei	ved in this Nation	al Stage
application *  * See the attached detail	from the Internation ed Office action for	r a list of the certified	d copies not recei	ved.	•
14) Acknowledgment is m	de of a claim for do	omestic priority unde	er 35 U.S.C. § 119	e(e) (to a provision	nal application
a) ☐ The translation of 15)☐ Acknowledgment is ma	the foreign langua	ge provisional appli	cation has been re	eceived.	
Attachment(s)			•		
1) Notice of References Cited (PT 2) Notice of Draffsperson's Patent (3) Information Disclosure Statement	Orawing Review (PTO-9	948) 5)	Interview Summ Notice of Inform Other:	ary (PTO-413) Paper al Patent Application (	No(s) (PTO-152)

Application/Control Nt mber: 10/046,739

Art Unit: 2814

## Page 2

## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to c ne of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5, drawn to a device, classified in class 257, subclass 565.
- II. Claims 5-11, drawn to a method, classified in class 438, subclass 500+.

  The inventions are dis inct, each from the other because of the following reasons:
- 2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other an I materially different product or (2) that the product as claimed can be made by another and naterially different process (MPEP § 806.05(f)). In the instant case the method can be used to make by another materially different product such as an LED display device.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the urt as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is a Jvised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must bε amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

Page 3

Application/Control Number: 10/046,739

Art Unit: 2814

application. Any amen Iment of inventorship must be accompanied by a request under 37 CFR

1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Vikki Trinh whose telephone number is (703) 308-8238. The Examiner can normall, be reached Mon-Tuesday, Thurs-Friday, 7:30 AM - 6:00 PM Eastern Time. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Wael Jahmy, can be reached at (703) 308-4918. General inquiries relating to the status of this application should be directed to the Group receptionist at (703) 308-0858. The fax number is (703) 308-2708.

Vikki Trinh,

Patent Examiner

AU 2814

November 17, 2002

W <sub>R</sub> ,	BADEMP	Angliant(a)	
	Application No.	Applicant(s)	
	10/046,739	YAMADA ET AL	
Notice of Abandon nent	Examiner	Art Unit	
	Vend to Table	2814	
	Vikki H. Trinh		idress
The MAILING DATE of this communication	appears on the cover sheet	mu the dan especial	
his application is abandoned in view of:		•	
(a) Applicant's failure to timely file a proper reply to the C  (a) A reply was received on with a Certificate period for reply (including a total extension of time	of month(s)) which ex	pired on	expiration of the
period for reply (including a total extension of time (b) A proposed reply was received on, but it d	oes not constitute a proper rep	ally filed amendment which n	laces the
(A proposed teply was received sit, but the continued Examination (RCE) in compliance with	37 CFR 1.114).	pod: 100// == (=/ - , _ , _ ,	·
(c) A reply was received on but it does not confinal rejection. See 37 CFR 1.8 5(a) and 1.111.	nstitute a proper reply, or a bo	na fide attempt at a proper re v).	pry, to the non-
(d) 🛛 No reply has been received.			
<ol> <li>Applicant's failure to timely pay the required issue fe from the mailing date of the Notice of Allowance (PT</li> </ol>			
from the mailing date of the Notice of Allowance (Fig. (a) The issue fee and publication fee, if applicable), which is after the expiration of the statute Allowance (PTOL-85).		n a Certificate of Mailing or successive fee (and publication fee)	Fransmission dated set in the Notice of
(1) [] The submitted fee of \$ is insufficient. A ba	lance of \$ is due.		
The issue fee required by 37 CFR 1.18 is \$	The publication fee, if req	uired by 37 CFR 1.18(d), is \$	·
(c) The issue fee and publication (se, if applicable, h	as not been received.		
			Votice of
3. Applicant's failure to timely file cor ected drawings at Allowability (PTO-37).			
Allowability (PTO-37).  (a) Proposed corrected drawings vere received on after the expiration of the peric d for reply.	(with a Certificate of Ma	ising of Transmission eases _	<del></del> // *
<ul><li>(b) ☐ No corrected drawings have b en received.</li></ul>			
4. The letter of express abandonme it which is signed the applicants.			
<ol> <li>The letter of express abandonment which is signed 1.34(a)) upon the filing of a continuing application.</li> </ol>	by an attorney or agent (actin	g in a representative capacity	under 37 CFR
6. ☐ The decision by the Board of Pat :nt Appeals and It of the decision has expired and there are no allowe	nterference rendered on d claims.	and because the period for s	seeking court review
7. 🖾 The reason(s) below:			
There was no reply to the Office Action sent o received in the file after six months from the d	n July 23, 2004. A status of ate of the Office Action.	f inquiry from the attorney	of record was
		11. Jan 27 OFD 4 494 should	t he promptly filed to
Petitions to revive under 37 CFR 1.137(a) ir (b), or requests to	withdraw the holding of abandon	nent under 37 CFR 1.161, Should	a be promptly med to
minimize any negative effects on patent term.	Notice of Abandonment		art of Paper No. 0405
PTOL-1432 (Rev. 04-01)	Notice of Adandonment	·	•



PATENT 3885-0102P

## IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Hisashi YAMADA et al. Conf.: 2551

Appl. No.: 10/046,739 Group: 2814

Filed: January 17, 2002 Examiner: H. TRINH

For: THIN-FILM CRYSTAL WAFER HAVING pn JUNCTION AND

METHOD FOR FABRICATING THE WAFER

## LARGE ENTITY TRANSMITTAL FORM

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

May 4, 2005

#### Sir:

Transmitted herewith is a Reply to Restriction/Election Requirement in the above-identified application.

	The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.
	Petition for ( ) month(s) extension of time pursuant to 37 C.F.R. §§ 1.17 and 1.136(a). \$0.00 for the extension of time.
$\boxtimes$	No fee is required.
	A check in the amount of \$0.00 is enclosed.
	Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this sheet is attached.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional

fees required under 37 C.F.R. \$\$1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

Meikle, #32,868

P.O. Box 747

Falls Church, VA 22040-0747 (703) 205-8000

ADM:gmh 3885-0102P

Attachment(s)



PATENT 3885-0102P

May 4, 2005

## IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Hisashi YAMADA et al. Conf.: 2551

Appl. No.: 10/046,739 Group: 2814

Filed: January 17, 2002 Examiner: H. TRINH

For: THIN-FILM CRYSTAL WAFER HAVING pn JUNCTION AND

METHOD FOR FABRICATING THE WAFER

## REPLY TO RESTRICTION REQUIREMENT

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In reply to the Restriction Requirement received April 4, 2005, via facsimile, the following remarks are respectfully submitted in connection with the above-identified application.

This reply includes: Remarks.

## REMARKS

Claims 1-11 are pending in the above-identified application.

The claims of the present application have been subjected to a Restriction Requirement under 35 U.S.C. 121 as follows:

**Group I -** claims 1-5 directed to a device; and

**Group II -** claims 6-11, directed to a method for making the device of the claims of Group I.

#### Election

Applicants hereby elect the claims of Group I, i.e. claims 1-5. This election is made with a traversal.

## Reasons for Traversal of Restriction Requirement

It is respectfully submitted that the search and examination for the presently elected Group I (claims 1-5) substantially overlaps with that of the non-elected Group II subject matter directed to a method for forming the device of elected Group I. For example, the method steps recited in claim 6 require the formation of a base layer, a thin film layer and an emitter layer which have the same composition and properties as recited for the corresponding layers in elected claim 1. The reason indicated for the restriction requirement that the method recited in the claims of Group II may be used to form a "materially different product" is

Appl. No. 10/046,739

not understood in that it appears the same product having the same properties is indeed formed by the method of non-elected group II claims. Consequently, it is submitted that there is no significant burden placed on the Examiner to examine all of the subject matter of all of the claims pending in the present application such that the Restriction Requirement should be withdrawn.

## Conclusion

If any questions arise regarding the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

Andrew D. Meikle, #32,868

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

ADM: qmh